

January 24, 2012

VIA ELECTRONIC FILING

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: WC Docket No. 11-42 - Lifeline and Link Up Reform and Modernization
NOTICE OF EX PARTE PRESENTATION

Dear Ms. Dortch:

On January 24, 2012, F. J. Pollak, President and Chief Executive Officer, TracFone Wireless, Inc. ("TracFone") and undersigned counsel met with Commissioner Mignon L. Clyburn and Angela Kronenberg, Legal Advisor to Commissioner Clyburn.

During the meeting, we discussed issues before the Commission in the above-captioned Lifeline and Link Up Modernization proceeding. Specifically, we discussed the Lifeline enrollment process and the importance of development of data bases to enable Eligible Telecommunications Carriers ("ETCs") to determine whether applicants for Lifeline benefits are enrolled in qualifying programs. Recognizing that such data bases may take up to several years to implement, we urged that the Commission not mandate a documentation of program-based eligibility requirement in a manner which would preclude qualified low-income consumers from enrolling and which would harm the program during the transition to data base access. We estimated that it would take one and one-half to two years for such state program data bases to become available in those states which do not have such data bases. Currently, TracFone has access to state-administered data bases in the following states: Florida, Maryland, Texas, Washington, and Wisconsin. A similar data base exists in New York. However, it is not available to TracFone; it is available only to those ETCs who are incumbent local exchange carriers.

We described the difficulties encountered by low income consumers in attempting to enroll in Lifeline programs in states which mandate documentation of program-based eligibility (sometimes referred to as "full certification" states). In this regard, we described how such mandatory full certification prevents many Lifeline-eligible low-income consumers from enrolling in the program. In response to a question whether that effect could be documented, we referred Commissioner Clyburn and Ms. Kronenberg to a previous letter submitted in this proceeding which quantified that impact. On August 3, 2011, TracFone submitted a letter which compared the enrollment levels in two states -- Missouri -- a full certification state, and Louisiana -- a self-certification state. In Louisiana, 71 percent of consumers who contact TracFone about its Lifeline program complete the enrollment process. In Missouri, only 32 percent of such consumers complete the enrollment process. A copy of that letter is attached hereto.

We were also asked which states subject TracFone to a full certification requirement. Of the more than 35 states where TracFone currently offers Lifeline service, only five states require such documentation. Those states are Kansas, Missouri, Rhode Island, South Carolina and Texas. The other states where TracFone provides Lifeline service as an ETC either allow for enrollment based on self-certification of program-based eligibility under penalty of perjury or provide access to data bases of enrollment eligibility information. We explained that many fewer applicants complete the Lifeline enrollment process in those "full certification" states because of the burdens on Lifeline applicants of having to produce such documentation. We also explained that it is far more costly to enroll qualified consumers in Lifeline programs and to operate an efficient Lifeline program in such "full certification" states.

With respect to data base access, we described how TracFone is working with the United States Department of Agriculture to arrange for access to Supplemental Nutrition Assistance Program (SNAP) data bases which are administered in many states by J.P. Morgan and Company. Access to such data bases would enable TracFone and other ETCs to confirm whether Lifeline applicants are enrolled in a major Lifeline qualifying program.

Finally, we described how significant amounts of waste, fraud and abuse of Universal Service Fund resources could be eliminated by requiring all ETCs to do what TracFone does -- verify annually that all Lifeline customers remain Lifeline-eligible. Limiting annual verification to random samples of customers does little to remove non-qualified customers from the program.

Pursuant to Section 1.1206(b) of the Commission's rules, this letter is being filed electronically. If there are questions, please communicate directly with undersigned counsel for TracFone.

Sincerely,

A handwritten signature in black ink, appearing to read "Mitchell F. Brecher", with a long horizontal flourish extending to the right.

Mitchell F. Brecher

enclosure

cc: Hon. Mignon L. Clyburn
Ms. Angela Kronenberg

Attachment

August 3, 2011

VIA ELECTRONIC FILING

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: WC Docket No. 11-42 - Lifeline and Link Up Reform and Modernization
CC Docket No. 96-45 - Federal-State Joint Board on Universal Service
WC Docket No. 03-109 - Lifeline and Link Up
NOTICE OF EX PARTE PRESENTATION

Dear Ms. Dortch:

In the Notice of Proposed Rulemaking in this proceeding, the Commission has proposed to revise Section 54.409(d)(1) of its rules so as to eliminate the process for allowing applicants for Lifeline service to self-certify under penalty of perjury their Lifeline eligibility based upon participation in a qualifying Lifeline program. Instead, the Commission proposes to require applicants to establish their program-based eligibility with documentation of enrollment in a qualifying program (In the Matter of Lifeline and Link Up Reform and Modernization, et al., FCC 11-32, ¶ 170). The Commission's stated reason for proposing to eliminate the self-certification process is its belief that self-certification does not provide sufficient protection against persons intentionally seeking to defraud the program. Further, the Commission speculates that elimination of self-certification and replacement with mandatory documentation of program-based eligibility (a process commonly referred to as "full certification") would reduce the number of ineligible customers enrolled in Lifeline and would reduce opportunities for waste, fraud, and abuse. Nothing in the notice of proposed rulemaking nor in the comments filed in the proceeding provides any evidentiary basis which supports the speculative theory that that self-certification under penalty of perjury has been a cause of waste, fraud and abuse.

In its April 21, 2011 comments, TracFone staunchly opposed the proposed elimination of self-certification of program-based eligibility. TracFone explained that mandatory documentation of program-based eligibility would do little, if anything, to prevent waste, fraud and abuse of Universal Service Fund resources. What full certification of program-based eligibility would do would be to unduly and unnecessarily complicate the Lifeline enrollment process, and would deter many qualified low-income households from enrolling in Lifeline programs. (TracFone's concerns with full certification are discussed at pages 27-31 of its comments). Since commencing Lifeline service in several states in 2008 (it now provides Lifeline service in most of the 38 states where it has been designated as an ETC), TracFone has had extensive experience with the Lifeline enrollment process. It has learned, based on that experience, that full certification is a major barrier to enrollment. In addition to being low-income, many potential Lifeline applicants are transient, elderly, young, and recent immigrants.

TracFone has learned that such persons often do not have documentation of program-based eligibility readily available. Of those customers that have such documentation, most do not have access to copying machines, fax machines, scanners and Internet-capable computers, necessary to transmit the documentation of program-based eligibility to their preferred Lifeline provider. As a result, most such customers are unable to produce such documentation and abandon the Lifeline enrollment process.

With only about 33 percent of qualified low-income households nationwide receiving Lifeline support, the program already is woefully underutilized. Imposition of a mandatory full certification requirement would result in even lower participation among low-income households and would undermine the Commission's objective of increasing Lifeline enrollment among qualified low-income households.

To illustrate the impact of mandatory documentation of program-based eligibility on Lifeline enrollment, TracFone herein describes its experience in two states: Missouri and Louisiana. TracFone has been designated as an ETC in both states and commenced offering its SafeLink Wireless® service in both states at nearly the same time. It used virtually identical advertising and outreach approaches in both states. Missouri is a full certification state (*i.e.*, it requires proof of program-based eligibility); Louisiana follows the current federal rule -- self-certification under penalty of perjury. In Louisiana, 71 percent of those who contacted the company were successfully enrolled in Lifeline; in Missouri, only 32 percent were enrolled -- a difference of 39 percent. Most Missouri consumers attempting to obtain Lifeline service from TracFone were unable to provide documentation and abandoned the enrollment process. As a result, TracFone has been able to enroll more six times as many Lifeline customers in Louisiana as it has in Missouri, despite the fact that the states have comparable populations. (According to 2010 Census Data, Missouri is the 18th most populous state with a population of 5.988 million; Louisiana is the 22nd most populous state with a population of 4.533 million.) That size difference does not explain the six fold difference in Lifeline enrollment. Based on TracFone's experience, that difference is explained by the fact that Missouri is a full certification state.

If, as the Commission suggests in the notice of proposed rulemaking, full certification would reduce the number of ineligible customers enrolling in Lifeline, one would expect that the percentage of customers whose continuing eligibility could be verified one year later would be significantly higher in full certification states. This seems logical since it would follow that if a higher percentage of enrolled Lifeline customers were initially qualified, then the percentage of qualified customers still enrolled one year later would be correspondingly higher. That would have been a logical outcome under the Commission's theory. However, the data indicate otherwise. TracFone verified customers' continuing eligibility for Lifeline using a statistically valid sample in accordance with Commission requirements. In Missouri -- a full certification state -- 69.05 percent of enrolled Lifeline customers were able to verify their continuing eligibility. In Louisiana -- a self-certification state -- 65.12 percent of enrolled Lifeline customers were able to verify their continuing eligibility. In short, the percentage of customers able to verify their continuing eligibility was less than four percentage points higher in a full certification state than in a self-certification state.

In considering whether to require documentation of program-based eligibility, the Commission needs to determine whether or not a four percent increase in the rate of customers able to verify their continuing eligibility is worth a 39 percent decrease in the percentage of low-income households who enroll in Lifeline. In TracFone's view, that modest increase in the percentage of those able to verify continuing eligibility is more than offset by the profound decrease in Lifeline enrollment by low-income households to whom a mandatory documentation of eligibility is an insurmountable obstacle to enrollment.

Neither the Commission nor any party to this proceeding provided a scintilla of data to support the theory that mandatory documentation of program-based eligibility would reduce waste, fraud and abuse. More importantly, there are other, more effective ways to combat waste, fraud, and abuse. A primary source of wasteful utilization of USF resources is duplicate enrollment by consumers, *i.e.*, enrollment in multiple ETCs' Lifeline programs. However, there has been no showing by any party of any correlation between full certification of program-based eligibility and duplicate enrollment. One has no relevancy to the other. Moreover, to the extent that concerns about duplicate enrollment may be deemed to be reasons for requiring documentation of program-based eligibility, the Commission has addressed duplicate enrollment in a more direct, more effective manner -- by establishing an interim procedure to detect duplicate enrollment situations and eliminate them through an allocation process. See Lifeline and Link Up Reform and Modernization, et al., FCC 11-97, released June 21, 2011. The procedures mandated by that order are now being implemented through the cooperative efforts of the Commission staff, the Universal Service Administrative Company, all involved ETCs, and a third party vendor. In addition, several states (including, for example, Florida, California, Maryland, Texas and Wisconsin) have established data bases which enable ETCs to determine on a real time basis, without burdening the Lifeline applicant, whether the applicant is enrolled in a qualifying program. ETCs are able to access those data bases and determine whether applicants for the Lifeline programs are enrolled in qualifying programs, without imposing a documentation burden on those applicants. During this proceeding, the Commission has received input from ETCs and others, including several well-qualified independent vendors, regarding the development and implementation of data base solutions which will enable ETCs to determine on a real time basis whether applicants qualify for Lifeline or are already receiving Lifeline support from other ETCs. Those solutions -- not mandatory full certification -- will prevent waste, fraud, and abuse without precluding many qualified low-income households from completing the enrollment process and receiving the Lifeline benefits which they need and to which they are entitled.

TracFone has taken steps beyond those required by the current rules to confirm that customers are who they claim to be and that they are qualified to receive Lifeline benefits. TracFone requires all Lifeline applicants to supplement the information required of Lifeline applicants by also providing date of birth and Social Security Number (last four digits) information. Date of birth information prevents minors from enrolling -- a potential source of waste, fraud and abuse. Social Security Number information enables TracFone to utilize services provided to it by Lexis Nexis to verify the accuracy of enrollment information provided

Ms. Marlene H. Dortch

August 3, 2011

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by Lifeline applicants. These processes have been very effective in enabling TracFone to prevent waste, fraud and abuse of USF resources. During the current year, TracFone has identified approximately thirty-eight percent of the applicants to its Lifeline program as having provided incorrect or fraudulent data, and has refused to enroll those applicants in its Lifeline program.

Rather than discouraging participation in Lifeline through the implementation of a burdensome and wholly unnecessary documentation of program-based eligibility requirement, TracFone proposes that the Commission move forward quickly to establish data bases to provide real time data regarding program-based eligibility and enrollment in other ETCs' Lifeline programs. It also recommends that the Commission require all ETCs to obtain from Lifeline applicants date of birth and Social Security number data.

Pursuant to Section 1.1206(b) of the Commission's Rules, this letter is being filed electronically. If there are questions, please communicate with undersigned counsel.

Respectfully submitted,



Mitchell F. Brecher

cc: Mr. Zachary Katz
Ms. Sharon Gillett
Mr. Trent Harkrader
Ms. Kimberly Scardino
Ms. Jamie Susskind
Ms. Cindy Spiers